

72



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EXAMINER

MORRISON, JAY A

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2168

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Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/694,509	Applicant(s) BENSON, ERIC A.	
	Examiner Jay A. Morrison	Art Unit 2168	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 27 October 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-42 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-42 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 27 October 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>10/27/03</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. Claims 1-42 are pending.

Double Patenting

The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. A nonstatutory obviousness-type double patenting rejection is appropriate where the conflicting claims are not identical, but at least one examined application claim is not patentably distinct from the reference claim(s) because the examined application claim is either anticipated by, or would have been obvious over, the reference claim(s). See, e.g., *In re Berg*, 140 F.3d 1428, 46 USPQ2d 1226 (Fed. Cir. 1998); *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) or 1.321(d) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent either is shown to be commonly owned with this application, or claims an invention made as a result of activities undertaken within the scope of a joint research agreement.

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

2. Claim 1 is rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claim 20 of U.S. Patent No. 6,714,926.

Although the conflicting claims are not identical, they are not patentably distinct from each other because:

"a server that responds to user requests for web pages, said server comprising a memory" is obvious over "A system for representing data structures within cookies,

comprising ... a second component that decodes cookies received from the user computers" (note: cookies come with associated web server webpage requests);

"schema data stored in the memory of the server, said schema data specifying past and present schemas used to encode data structures into cookies stored on user computers" is obvious over "schema data that specifies past and present schemas used to encode data structures within cookies";

"a conversion component executed by the server, said conversion component configured to use the schema data to identify and decode the data structures encoded within cookies received from user computers to generate temporary data structures within the memory of the server" is obvious over "a first component that encodes data structures into cookies to be stored on user computers based on a current schema specified by the schema data, wherein the first component translates non-character data of the data structures into character data, and incorporates the character data into the cookies; and a second component that decodes cookies received from the user computers and reproduces data structures represented therein based on the schema data";

"and application code executed by the server, said application code configured to use the temporary data structures to customize web pages requested by the user computers" is obvious over "an application component that generates custom web pages using data structures reproduced by the second component."

Claim 20 of Patent Number 6,714,926 contains every element of claim 1 of the instant application and thus anticipates the claim of the instant application. The claim of

the instant application therefore is not patently distinct from the earlier patent claim and as such is unpatentable over obvious-type double patenting. A later patent/application claim is not patentably distinct from an earlier claim if the later claim is anticipated by the earlier claim.

3. Claim 18 is rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claim 12 of U.S. Patent No. 6,714,926. Although the conflicting claims are not identical, they are not patentably distinct from each other because:

“(a) receiving, at a server, cookie data that has a data structure encoded therein, said cookie data received from a user computer” is obvious over “at a server, receiving a cookie from a user computer, wherein the cookie includes an encoded representation of an entire data structure”;

“(b) determining whether the data structure encoded within the cookie data is valid; and” is obvious over “reproducing the data structure comprises computing a checksum from data contained within the cookie, and comparing the checksum as computed to a checksum extracted from the cookie”;

“(c) if and only if the data structure encoded within the cookie data is determined to be valid in step (b), decoding the encoded data structure to reproduce the data structure within a memory of the server” is obvious over “reproducing the data structure comprises computing a checksum from data contained within the cookie, and comparing the checksum as computed to a checksum extracted from the cookie”.

Claim 12 of Patent Number 6,714,926 contains every element of claim 18 of the instant application and thus anticipates the claim of the instant application. The claim of the instant application therefore is not patently distinct from the earlier patent claim and as such is unpatentable over obvious-type double patenting. A later patent/application claim is not patentably distinct from an earlier claim if the later claim is anticipated by the earlier claim.

4. Claim 20 is rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claim 12 of U.S. Patent No. 6,714,926. Although the conflicting claims are not identical, they are not patentably distinct from each other because:

“(a) receiving, at a server, cookie data that has a data structure encoded therein, said cookie data received from a user computer” is obvious over “at a server, receiving a cookie from a user computer, wherein the cookie includes an encoded representation of an entire data structure”;

“(b) determining whether the data structure encoded within the cookie data is valid; and” is obvious over “reproducing the data structure comprises computing a checksum from data contained within the cookie, and comparing the checksum as computed to a checksum extracted from the cookie”;

“(c) if and only if the data structure encoded within the cookie data is determined to be valid in step (b), decoding the encoded data structure to reproduce the data structure within a memory of the server” is obvious over “reproducing the data structure

comprises computing a checksum from data contained within the cookie, and comparing the checksum as computed to a checksum extracted from the cookie”;

“step (b) comprises identifying a version of a schema used to encode the data structure within the cookie data” is obvious over “reproducing the data structure comprises comparing a schema version identifier within the cookie to a schema representation stored on the server to identify types of data structures represented within the cookie”.

Claim 12 of Patent Number 6,714,926 contains every element of claim 20 of the instant application and thus anticipates the claim of the instant application. The claim of the instant application therefore is not patently distinct from the earlier patent claim and as such is unpatentable over obvious-type double patenting. A later patent/application claim is not patentably distinct from an earlier claim if the later claim is anticipated by the earlier claim.

5. Claim 23 is rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claim 12 of U.S. Patent No. 6,714,926. Although the conflicting claims are not identical, they are not patentably distinct from each other because:

“(a) receiving, at a server, cookie data that has a data structure encoded therein, said cookie data received from a user computer” is obvious over “at a server, receiving a cookie from a user computer, wherein the cookie includes an encoded representation of an entire data structure”;

“(b) determining whether the data structure encoded within the cookie data is valid; and” is obvious over “reproducing the data structure comprises computing a checksum from data contained within the cookie, and comparing the checksum as computed to a checksum extracted from the cookie”;

“(c) if and only if the data structure encoded within the cookie data is determined to be valid in step (b), decoding the encoded data structure to reproduce the data structure within a memory of the server” is obvious over “reproducing the data structure comprises computing a checksum from data contained within the cookie, and comparing the checksum as computed to a checksum extracted from the cookie”.

“using the data structure as reproduced in step (c) to customize a web page requested by the user computer” is obvious over “generating a custom web page using information contained within the data structure as reproduced within the memory of the server”.

Claim 12 of Patent Number 6,714,926 contains every element of claim 23 of the instant application and thus anticipates the claim of the instant application. The claim of the instant application therefore is not patently distinct from the earlier patent claim and as such is unpatentable over obvious-type double patenting. A later patent/application claim is not patentably distinct from an earlier claim if the later claim is anticipated by the earlier claim.

6. Claim 28 is rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claim 1 of U.S. Patent No. 6,714,926.

Art Unit: 2168

Although the conflicting claims are not identical, they are not patentably distinct from each other because:

“identifying a set of data structures to be encoded within the cookie data” is obvious over “schema data which specifies a schema for encoding the at least one data structure within browser cookies”;

“encoding the set of data structures within the cookie data according to schema data stored within a computer memory, said schema data specifying how the set of data structures is to be encoded within the cookie data” is obvious over “translating the at least one data structure, including the plurality of primitives, into a character string according to the schema ... wherein the step of translating the at least one data structure into a character string is performed by executable code according to the schema data”;

“and incorporating into the cookie data at least one of the following to facilitate extraction of the set of data structures from the cookie data: (a) a schema identifier, (b) the schema data” is obvious over “wherein the step of translating the at least one data structure into a character string is performed by executable code according to the schema data”.

Claim 1 of Patent Number 6,714,926 contains every element of claim 28 of the instant application and thus anticipates the claim of the instant application. The claim of the instant application therefore is not patently distinct from the earlier patent claim and as such is unpatentable over obvious-type double patenting. A later patent/application

Art Unit: 2168

claim is not patentably distinct from an earlier claim if the later claim is anticipated by the earlier claim.

7. Claim 29 is rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claim 1 of U.S. Patent No. 6,714,926. Although the conflicting claims are not identical, they are not patentably distinct from each other because:

“identifying a set of data structures to be encoded within the cookie data” is obvious over “schema data which specifies a schema for encoding the at least one data structure within browser cookies”;

“encoding the set of data structures within the cookie data according to schema data stored within a computer memory, said schema data specifying how the set of data structures is to be encoded within the cookie data” is obvious over “translating the at least one data structure, including the plurality of primitives, into a character string according to the schema ... wherein the step of translating the at least one data structure into a character string is performed by executable code according to the schema data”;

“and incorporating into the cookie data at least one of the following to facilitate extraction of the set of data structures from the cookie data: (a) a schema identifier, (b) the schema data” is obvious over “wherein the step of translating the at least one data structure into a character string is performed by executable code according to the schema data”;

"incorporating the schema data into the cookie data" is obvious over "wherein the step of translating the at least one data structure into a character string is performed by executable code according to the schema data".

Claim 1 of Patent Number 6,714,926 contains every element of claim 29 of the instant application and thus anticipates the claim of the instant application. The claim of the instant application therefore is not patently distinct from the earlier patent claim and as such is unpatentable over obvious-type double patenting. A later patent/application claim is not patentably distinct from an earlier claim if the later claim is anticipated by the earlier claim.

8. Claim 30 is rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claim 3 of U.S. Patent No. 6,714,926. Although the conflicting claims are not identical, they are not patentably distinct from each other because:

"identifying a set of data structures to be encoded within the cookie data" is obvious over "schema data which specifies a schema for encoding the at least one data structure within browser cookies";

"encoding the set of data structures within the cookie data according to schema data stored within a computer memory, said schema data specifying how the set of data structures is to be encoded within the cookie data" is obvious over "translating the at least one data structure, including the plurality of primitives, into a character string according to the schema ... wherein the step of translating the at least one data

structure into a character string is performed by executable code according to the schema data”;

“and incorporating into the cookie data at least one of the following to facilitate extraction of the set of data structures from the cookie data: (a) a schema identifier, (b) the schema data” is obvious over “wherein the step of translating the at least one data structure into a character string is performed by executable code according to the schema data”;

“incorporating a schema identifier into the cookie data, said schema identifier identifying one of a plurality of schemas used over a period of time to encode data structures within cookie data” is obvious over “translating the at least one data structure into a character string comprises incorporating a schema version identifier into the character string”.

Claim 3 of Patent Number 6,714,926 contains every element of claim 30 of the instant application and thus anticipates the claim of the instant application. The claim of the instant application therefore is not patently distinct from the earlier patent claim and as such is unpatentable over obvious-type double patenting. A later patent/application claim is not patentably distinct from an earlier claim if the later claim is anticipated by the earlier claim.

9. Claim 31 is rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claim 1 of U.S. Patent No. 6,714,926.

Art Unit: 2168

Although the conflicting claims are not identical, they are not patentably distinct from each other because:

“identifying a set of data structures to be encoded within the cookie data” is obvious over “schema data which specifies a schema for encoding the at least one data structure within browser cookies”;

“encoding the set of data structures within the cookie data according to schema data stored within a computer memory, said schema data specifying how the set of data structures is to be encoded within the cookie data” is obvious over “translating the at least one data structure, including the plurality of primitives, into a character string according to the schema ... wherein the step of translating the at least one data structure into a character string is performed by executable code according to the schema data”;

“and incorporating into the cookie data at least one of the following to facilitate extraction of the set of data structures from the cookie data: (a) a schema identifier, (b) the schema data” is obvious over “wherein the step of translating the at least one data structure into a character string is performed by executable code according to the schema data”;

“the set of data structures is encoded within the cookie data using executable code that is not specific to a particular type of data structure” is obvious over “translating the at least one data structure into a character string is performed by executable code according to the schema data, such that types of data structures encoded within

browser cookies may be changed over time by modifying the schema, without modifying the executable code”.

Claim 1 of Patent Number 6,714,926 contains every element of claim 31 of the instant application and thus anticipates the claim of the instant application. The claim of the instant application therefore is not patently distinct from the earlier patent claim and as such is unpatentable over obvious-type double patenting. A later patent/application claim is not patentably distinct from an earlier claim if the later claim is anticipated by the earlier claim.

10. Claim 32 is rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claim 5 of U.S. Patent No. 6,714,926. Although the conflicting claims are not identical, they are not patentably distinct from each other because:

“identifying a set of data structures to be encoded within the cookie data” is obvious over “schema data which specifies a schema for encoding the at least one data structure within browser cookies”;

“encoding the set of data structures within the cookie data according to schema data stored within a computer memory, said schema data specifying how the set of data structures is to be encoded within the cookie data” is obvious over “translating the at least one data structure, including the plurality of primitives, into a character string according to the schema ... wherein the step of translating the at least one data

structure into a character string is performed by executable code according to the schema data”;

“and incorporating into the cookie data at least one of the following to facilitate extraction of the set of data structures from the cookie data: (a) a schema identifier, (b) the schema data” is obvious over “wherein the step of translating the at least one data structure into a character string is performed by executable code according to the schema data”;

“the set of data structures includes noncharacter primitives” is obvious over “the plurality of primitives include primitives of at least one of the following data types: 8-bit integers, 16-bit integers, and 32-bit integers”.

Claim 5 of Patent Number 6,714,926 contains every element of claim 32 of the instant application and thus anticipates the claim of the instant application. The claim of the instant application therefore is not patently distinct from the earlier patent claim and as such is unpatentable over obvious-type double patenting. A later patent/application claim is not patentably distinct from an earlier claim if the later claim is anticipated by the earlier claim.

11. Claim 33 is rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claim 5 of U.S. Patent No. 6,714,926. Although the conflicting claims are not identical, they are not patentably distinct from each other because:

“identifying a set of data structures to be encoded within the cookie data” is obvious over “schema data which specifies a schema for encoding the at least one data structure within browser cookies”;

“encoding the set of data structures within the cookie data according to schema data stored within a computer memory, said schema data specifying how the set of data structures is to be encoded within the cookie data” is obvious over “translating the at least one data structure, including the plurality of primitives, into a character string according to the schema ... wherein the step of translating the at least one data structure into a character string is performed by executable code according to the schema data”;

“and incorporating into the cookie data at least one of the following to facilitate extraction of the set of data structures from the cookie data: (a) a schema identifier, (b) the schema data” is obvious over “wherein the step of translating the at least one data structure into a character string is performed by executable code according to the schema data”;

“the set of data structures includes primitives of at least one of the following data types 16-bit integers, 32-bit integers” is obvious over “the plurality of primitives include primitives of at least one of the following data types: 8-bit integers, 16-bit integers, and 32-bit integers”.

Claim 5 of Patent Number 6,714,926 contains every element of claim 33 of the instant application and thus anticipates the claim of the instant application. The claim of the instant application therefore is not patently distinct from the earlier patent claim and

as such is unpatentable over obvious-type double patenting. A later patent/application claim is not patentably distinct from an earlier claim if the later claim is anticipated by the earlier claim.

12. Claim 34 is rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claim 2 of U.S. Patent No. 6,714,926. Although the conflicting claims are not identical, they are not patentably distinct from each other because:

“identifying a set of data structures to be encoded within the cookie data” is obvious over “schema data which specifies a schema for encoding the at least one data structure within browser cookies”;

“encoding the set of data structures within the cookie data according to schema data stored within a computer memory, said schema data specifying how the set of data structures is to be encoded within the cookie data” is obvious over “translating the at least one data structure, including the plurality of primitives, into a character string according to the schema ... wherein the step of translating the at least one data structure into a character string is performed by executable code according to the schema data”;

“and incorporating into the cookie data at least one of the following to facilitate extraction of the set of data structures from the cookie data: (a) a schema identifier, (b) the schema data” is obvious over “wherein the step of translating the at least one data

structure into a character string is performed by executable code according to the schema data”;

“incorporating a checksum into the cookie data to permit subsequent detection of whether the cookie data has been modified” is obvious over “translating the at least one data structure into a character string comprises calculating a checksum, and incorporating the checksum and a length value into the character string”.

Claim 2 of Patent Number 6,714,926 contains every element of claim 34 of the instant application and thus anticipates the claim of the instant application. The claim of the instant application therefore is not patently distinct from the earlier patent claim and as such is unpatentable over obvious-type double patenting. A later patent/application claim is not patentably distinct from an earlier claim if the later claim is anticipated by the earlier claim.

13. Claim 35 is rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claim 8 of U.S. Patent No. 6,714,926. Although the conflicting claims are not identical, they are not patentably distinct from each other because:

“identifying a set of data structures to be encoded within the cookie data” is obvious over “schema data which specifies a schema for encoding the at least one data structure within browser cookies”;

“encoding the set of data structures within the cookie data according to schema data stored within a computer memory, said schema data specifying how the set of data

Art Unit: 2168

structures is to be encoded within the cookie data” is obvious over “translating the at least one data structure, including the plurality of primitives, into a character string according to the schema ... wherein the step of translating the at least one data structure into a character string is performed by executable code according to the schema data”;

“and incorporating into the cookie data at least one of the following to facilitate extraction of the set of data structures from the cookie data: (a) a schema identifier, (b) the schema data” is obvious over “wherein the step of translating the at least one data structure into a character string is performed by executable code according to the schema data”;

“is performed in an off-line mode to reduce a delay experienced by a user” is obvious over “translates the at least one data structure into the character string in an off-line mode”.

Claim 8 of Patent Number 6,714,926 contains every element of claim 35 of the instant application and thus anticipates the claim of the instant application. The claim of the instant application therefore is not patently distinct from the earlier patent claim and as such is unpatentable over obvious-type double patenting. A later patent/application claim is not patentably distinct from an earlier claim if the later claim is anticipated by the earlier claim.

14. Claim 39 is rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claim 1 of U.S. Patent No. 6,714,926.

Art Unit: 2168

Although the conflicting claims are not identical, they are not patentably distinct from each other because:

“storing schema data on at least one server computer of a web site system said schema data specifying schemas used by executable software to” is obvious over “storing, on a server of the web site, schema data which specifies a schema for”;

“(a) encode data structures within cookies for storage on user computers” is obvious over “translating the at least one data structure, including the plurality of primitives, into a character string according to the schema; incorporating the character string into a browser cookie to be stored on a user computer”;

“and (b) decode said cookies to extract the data structures when the cookies are returned by the user computers” is obvious over “and subsequently, in response to the server receiving the browser cookie from the user computer, using the schema data to translate the character string back into the at least one data structure”;

“and modifying the schema data over time to add data structures to, and remove data structures from, a set of data structures encoded within cookies by the executable software” is obvious over “the step of translating the at least one data structure into a character string is performed by executable code according to the schema data, such that types of data structures encoded within browser cookies may be changed over time by modifying the schema, without modifying the executable code”.

Claim 1 of Patent Number 6,714,926 contains every element of claim 39 of the instant application and thus anticipates the claim of the instant application. The claim of the instant application therefore is not patently distinct from the earlier patent claim and

Art Unit: 2168

as such is unpatentable over obvious-type double patenting. A later patent/application claim is not patentably distinct from an earlier claim if the later claim is anticipated by the earlier claim.

"A later patent claim is not patentably distinct from an earlier patent claim if the later claim is obvious over, or anticipated by, the earlier claim. In re Longi, 759 F.2d at 896, 225 USPQ at 651 (affirming a holding of obviousness-type double patenting because the claims at issue were obvious over claims in four prior art patents); In re Berg, 140 F.3d at 1437, 46 USPQ2d at 1233 (Fed. Cir. 1998) (affirming a holding of obviousness type double patenting where a patent application claim to a genus is anticipated by a patent claim to a species within that genus). " ELI LILLY AND COMPANY v BARR LABORATORIES, INC., United States Court of Appeals for the Federal Circuit, ON PETITION FOR REHEARING EN BANC (DECIDED: May 30, 2001).

"Claim 12 and Claim 13 are generic to the species of invention covered by claim 3 of the patent. Thus, the generic invention is "anticipated" by the species of the patented invention. Cf., Titanium Metals Corp. v. Banner, 778 F.2d 775, 227 USPQ 773 (Fed. Cir. 1985) (holding that an earlier species disclosure in the prior art defeats any generic claim) 4 . This court's predecessor has held that, without a terminal disclaimer, the species claims preclude issuance of the generic application. In re Van Ornum, 686 F.2d 937, 944, 214 USPQ 761, 767 (CCPA 1982); Schneller , 397 F.2d at 354. Accordingly, absent a terminal disclaimer, claims 12 and 13 were properly rejected under the

Art Unit: 2168

doctrine of obviousness-type double patenting.” (In re Goodman (CA FC) 29 USPQ2d 2010 (12/3/1993).

Claim Rejections - 35 USC § 102

15. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

16. Claims 1-15,17-28,30-42 are rejected under 35 U.S.C. 102(e) as being anticipated by Durham (Patent Number 6,330,566).

As per claim 1, Durham teaches

“a server that responds to user requests for web pages, said server comprising a memory” (figure 6; column 1, line 46 through column 16, line 40);

“schema data stored in the memory of the server, said schema data specifying past and present schemas used to encode data structures into cookies stored on user computers” (figure 5; column 9, line 33 through column 10, line 59);

“a conversion component executed by the server, said conversion component configured to use the schema data to identify and decode the data structures encoded

Art Unit: 2168

within cookies received from user computers to generate temporary data structures within the memory of the server” (column 9, line 65 through column 10, line 11);

“and application code executed by the server, said application code configured to use the temporary data structures to customize web pages requested by the user computers” (column 9, line 65 through column 10, line 11).

As per claim 2, Durham teaches

“the conversion component is not specific to a particular type of data structure” (column 4, lines 12-48).

As per claim 3, Durham teaches

“the conversion component supports a plurality of different types of data structures” (column 4, lines 12-48).

As per claim 4, Durham teaches

“the schema data specifies the content and format of each of a plurality of data structures that are encoded within the cookies” (column 9, lines 32-65).

As per claim 5, Durham teaches

“the schema data includes, for a given data structure that is encoded within cookies, an identification of primitive fields of the given data structure and datatypes of said primitive fields” (column 4, lines 20-48).

As per claim 6, Durham teaches

“the schema data further includes address offsets of the primitive fields” (column 4, lines 20-48).

As per claim 7, Durham teaches

“the schema data includes, for a given data structure that is encoded within cookies, an indication of a range of schema versions for which the data structure is valid, wherein the conversion component uses said range to determine whether a particular data structure encoded within a cookie is valid” (column 4, lines 12-48).

As per claim 8, Durham teaches

“the schema data includes information about at least one data structure that is no longer in use” (out of date, column 10, lines 12-16).

As per claim 9, Durham teaches

“the conversion component uses the schema data to determine which of a set of the data structures encoded within a received cookie are to be decoded for use” (column 11, line 15-36 and column 15, lines 24-50).

As per claim 10, Durham teaches

“the conversion component uses the schema data to determine whether a particular data structure that is encoded within a received cookie is to be decoded for use” (column 11, line 15-36 and column 15, lines 24-50).

As per claim 11, Durham teaches

“the conversion component is an executable function that is called by the application code” (column 31, lines 15-32).

As per claim 12, Durham teaches

“the schema data is cached with random access memory of the server” (column 6, lines 8-17).

As per claim 13, Durham teaches

“the schema data is stored within a file in the memory of the server” (column 6, lines 19-36).

As per claim 14, Durham teaches

“the schema data is stored within a table in the memory of the server” (column 11, lines 52-67).

As per claim 15, Durham teaches

“the conversion component uses a checksum included within a received cookie to evaluate whether the cookie has been modified” (figure 3; column 8, line 2 through column 9, line 32; note: checksums are used to validate all network data).

As per claim 17, Durham teaches

“an encoding component that encodes data structures into cookies according to a current schema specified by the schema data” (figures 4-5; column 9, lines 32-52).

As per claim 18, Durham teaches

“(a) receiving, at a server, cookie data that has a data structure encoded therein, said cookie data received from a user computer” (figure 3; column 8, line 2 through column 9, line 32);

“(b) determining whether the data structure encoded within the cookie data is valid” (figure 3; column 8, line 2 through column 9, line 32; note: when a network computer system receives data, the data is validated throughout the network transport stages);

“(c) if and only if the data structure encoded within the cookie data is determined to be valid in step (b), decoding the encoded data structure to reproduce the data structure within a memory of the server” (column 9, line 65 through column 10, line 11; note: the data received over a network, after validation throughout the transport of that data, is determined valid).

As per claim 19, Durham teaches

“the validity of the data structure as determined in step (b) reflects whether the data structure is currently used by any applications running on the server” (column 9, line 65 through column 10, line 16).

As per claim 20, Durham teaches

“step (b) comprises identifying a version of a schema used to encode the data structure within the cookie data” (column 9, line 65 through column 10, line 16).

As per claim 21, Durham teaches

“step (b) comprises using schema data stored within the memory of the server to determine whether the data structure is valid” (column 9, lines 28-32).

As per claim 22, Durham teaches

“a plurality of data structures are encoded within the cookie data, and the method comprises determining which of the plurality of data structures should be fully decoded” (column 11, line 15-36 and column 15, lines 24-50).

As per claim 23, Durham teaches

“using the data structure as reproduced in step (c) to customize a web page requested by the user computer” (column 9, line 66 through column 10, line 12).

Art Unit: 2168

As per claim 24,

“step (c) is performed by executable code that is not specific to a particular type of data structure” (column 8, lines 5-20; note: executable handled different data structures in the reference).

As per claim 25, Durham teaches

“the data structure includes primitives of at least one of the following data types: 16-bit integers, 32-bit integers” (column 4, lines 12-48).

As per claim 26, Durham teaches

“A server system that performs the method” (figure 6; column 1, line 46 through column 16, line 40).

As per claim 27, Durham teaches

“A computer program that embodies the method of claim 18 stored within a computer readable medium” (column 6, lines 19-36).

As per claim 28, Durham teaches

“identifying a set of data structures to be encoded within the cookie data” (figure 2; column 7, lines 21-50);

“encoding the set of data structures within the cookie data according to schema data stored within a computer memory, said schema data specifying how the set of data

Art Unit: 2168

structures is to be encoded within the cookie data” (figure 5; column 9, line 33 through column 10, line 59);

“and incorporating into the cookie data at least one of the following to facilitate extraction of the set of data structures from the cookie data: (a) a schema identifier, (b) the schema data” (figure 5; column 10, line 12 through column 11, line 67).

As per claim 30, Durham teaches

“incorporating a schema identifier into the cookie data, said schema identifier identifying one of a plurality of schemas used over a period of time to encode data structures within cookie data” (column 3, lines 5-20).

As per claim 31, Durham teaches

“the set of data structures is encoded within the cookie data using executable code that is not specific to a particular type of data structure” (column 8, lines 5-20; note: executable handled different data structures in the reference).

As per claim 32, Durham teaches

“the set of data structures includes non-character primitives” (column 4, line 20-34).

As per claim 33,

This claim is rejected on grounds corresponding to the arguments given above for rejected claim 25 and is similarly rejected.

As per claim 34, Durham teaches

“incorporating a checksum into the cookie data to permit subsequent detection of whether the cookie data has been modified” (figure 3; column 8, line 2 through column 9, line 32; note: checksums are used to validate all network data).

As per claim 35, Durham teaches

“the method is performed in an off-line mode to reduce a delay experienced by a user” (column 9, line 65 through column 10, line 11; note: all web transactions are atomic by definition, with states maintained between transactions and processing done outside of the transactions, and therefore the processing is done off-line).

As per claim 36, Durham teaches

“A computer-readable medium comprising cookie data generated” (column 6, lines 18-36).

As per claim 37, Durham teaches

“A computer system configured to perform the method” (figure 1; column 5, line 64 through column 6, line 7).

As per claim 38, Durham teaches

“a computer-readable medium that stores a computer program embodying the method” (column 6, lines 18-36).

As per claim 39, Durham teaches

“storing schema data on at least one server computer of a web site system, said schema data specifying schemas used by executable software to (a) encode data structures within cookies for storage on user computers, and (b) decode said cookies to extract the data structures when the cookies are returned by the user computers” (figure 5; column 9, line 33 through column 10, line 59);

“and modifying the schema data over time to add data structures to, and remove data structures from, a set of data structures encoded within cookies by the executable software” (column 7, lines 21-50).

As per claim 40, Durham teaches

“the schema data is modified according to a set of rules to enable the executable software to decode cookies encoded using both past and present schemas” (column 3, lines 5-20).

As per claim 41, Durham teaches

“the rules are enforced by a management layer” (personalization process, column 7, line 22-29).

As per claim 42, Durham teaches

“the executable software is not specific to a particular type of data structure”

(column 8, lines 5-20; note: executable handled different data structures in the reference).

Claim Rejections - 35 USC § 103

17. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

18. Claim 16 is rejected under 35 U.S.C. 103(a) as being unpatentable over Durham (Patent Number 6,330,566), as applied to claim 1 above, and further in view of McDonough et al. (‘McDonough’ hereinafter) (Patent Number 5,991,878).

As per claim 16,

Durham does not explicitly indicate “the conversion component applies a decryption algorithm to encrypted information contained in the cookies received from the user computers”.

However, McDonough discloses “the conversion component applies a decryption algorithm to encrypted information contained in the cookies received from the user computers” (column 4, lines 44-56).

It would have been obvious to one of ordinary skill in the art to combine Durham and McDonough because using the steps of “the conversion component applies a decryption algorithm to encrypted information contained in the cookies received from the user computers” would have given those skilled in the art the tools to improve the invention by insuring that only authorized users have access. This gives the user the advantage of having more secure data.

19. Claim 29 is rejected under 35 U.S.C. 103(a) as being unpatentable over Durham (Patent Number 6,330,566) as applied to claim 28 above, and further in view of Goldberg (Patent Number 5,907,847).

As per claim 29, Durham teaches

“cookie” (column 4, lines 12-20).

Durham does not explicitly indicate “incorporating the schema data into the ... data”.

However, Goldberg discloses “incorporating the schema data into the ... data” (column 3, lines 39-49).

It would have been obvious to one of ordinary skill in the art to combine Durham and Goldberg because using the steps of “incorporating the schema data into the ...

data” would have given those skilled in the art the tools to improve the invention by insuring the integrity of the data. This gives the user the advantage of being able to immediately interpret the data.

Conclusion

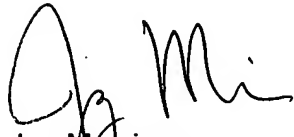
The prior art made of record, listed on form PTO-892, and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jay A. Morrison whose telephone number is (571) 272-7112. The examiner can normally be reached on M-F 8-4:30.


If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tim Vo can be reached on (571) 272-3642. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Art Unit: 2168



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